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C O N F I D E N T I A L CARACAS 002811

SIPDIS

NSC FOR CBARTON

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TAGS: [ELAB](#) [PGOV](#) [PHUM](#) [ENRG](#) [VE](#)

SUBJECT: GOV DENIES LABOR CLAIMS OF EX-OIL WORKERS

REF: A. CARACAS 1139

1B. 03 CARACAS 3200

Classified By: Abelardo A. Arias, Political Counselor,
for Reasons 1.4(b) and (d).

Summary

11. (C) Venezuela's Minister of Labor rejected on August 31 a petition to reinstate 14,000 ex-workers of Petroleos de Venezuela (PDVSA) fired in the wake of the December 2002 - January 2003 national strike. Minister of Labor Maria Cristina Iglesias ruled the dismissals do not meet the legal definition of "mass firing" under Venezuelan law. In rejecting the petition, Iglesias said the striking workers had imposed a disproportionate hardship on Venezuelan society that outweighed the collective interests of the workers. Representatives of the fired workers also accused the GOV of ignoring International Labor Organization (ILO) recommendations. The GOV argues that the dispute should be addressed on a case-by-case basis rather than collectively. Additionally, the GOV remains convinced that the fired workers were, in fact, engaged in economic sabotage to overthrow President Hugo Chavez during the strike, an impediment to any equitable solution. End summary.

Labor Minister Denies It Was a "Mass Firing"

12. (U) Minister of Labor Maria Cristina Iglesias ruled August 31 that the 14,000 ex-workers of Petroleos de Venezuela (PDVSA) fired during the December 2002 - January 2003 strike were not dismissed in a "mass firing" as spelled out in Venezuelan labor law. A "mass firing," defined as more than 10 percent of an employer's workforce, must be approved by the Minister of Labor, who may reverse the dismissals if they are deemed to be contrary to the "social interest." Although the PDVSA firing constituted more than 40 percent of the state-run oil company's workforce, Iglesias concluded that the strike affected the quality of life of all Venezuelan society, which the government is obligated to protect. Minister Iglesias previously issued two similar decisions encompassing an additional 6,000 employees of PDVSA subsidiaries Intevep and Pequiven. Iglesias also argued that the national strike did not comply with the requirements of the labor code. Iglesias told reporters September 1 the strike was, in fact, an attempt to overthrow President Hugo Chavez against the will of Venezuelans.

Opposition Unions Claim Political Retaliation

13. (SBU) Venezuela Workers Confederation (CTV) Executive Secretaries Alfredo Ramos and Pablo Castro criticized the

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decision September 1 as an instrument of political retaliation. Ramos questioned whether the GOV's offer of dialogue with the opposition can be considered sincere in light of the Labor Minister's actions. Castro asserted that the decision proves the rule of law is lost in Venezuela. Castro defended the workers' decision to strike, calling it a legitimate response to a GOV attack on the meritocracy that ran PDVSA until President Chavez attempted to replace its board with his sympathizers in 2002. Juan Fernandez, leader of the organization of the fired workers, Gente de Petroleo, told poloff September 1 his organization planned to reject the decision. Fernandez said they would hold a series of assemblies throughout Venezuela with the fired workers to coordinate their strategy to resolve the dismissals.

An "Irreversible" Determination

14. (C) Iglesias said September 1 her decision was "irreversible" though she left open the possibility that the workers could appeal to the Administrative Policy Chamber of

the Supreme Court (TSJ). Carlos Alexis Castillo, Director General in the Ministry of Labor, told reporters August 31 the workers may still pursue individual claims with local labor inspectorates, adding that a Caracas-based inspector had already processed (and denied) 100 individual petitions. Ivan Gonzalez, head of the human rights office of the Inter-American Regional Organization of Workers (ORIT), told

Poloff September 1 there is effectively no recourse to the courts or inspectorates because the GOV controls these institutions. He added that the TSJ declared the strike illegal in December 2002, making a GOV settlement unlikely from a legal perspective. Gonzalez asserted that the re-incorporation of the fired workers is impossible, and added that the workers' best hope is to be able to receive legally mandated severance and pension payments as well as the balances of their individual savings accounts still held by PDVSA.

ILO Treaties, Recommendations Ignored

15. (C) The Labor Minister's decision flies in the face of International Labor Organization (ILO) conventions 87 and 98, according to Edgar Quijano, an ex-PDVSA manager and labor advisor to UNAPETROL, the union formed by fired oil workers. Quijano told poloff September 1 the decision also ignores many ILO recommendations approved by the Governing Body in June 2004 (ref a). ORIT's Gonzalez said the decision shows the GOV will not apply ILO recommendations, preferring to disagree with the international body's conclusions that the December 2002 - January 2003 strike amounted to a national, generalized strike. Juan Fernandez said he hoped these issues would be investigated by the ILO direct contact mission, which should take place in September or October if the GOV permits.

Comment

16. (C) The Minister's decision got some media attention because of the peculiar logic that the dismissal of 14,000 employees cannot legally be called a "mass firing." For the Minister to have decided otherwise, however, would have meant the immediate re-incorporation of the employees into PDVSA, which is politically and logistically impossible. The GOV's revolutionary orthodoxy considers the strike as an attempted economic coup d'etat by the opposition -- an interpretation not completely removed from the truth. Unfortunately, the GOV's unwillingness to reach a collective settlement with the workers has left them in legal limbo and in financial distress. The GOV will continue its case-by-case approach of coaxing a small number of people back to work on its terms and will probably resist, or impose tight conditions on, the ILO direct contact mission.
Brownfield